

United States Senate  
WASHINGTON, DC 20510

November 25, 2020

The Honorable Steven T. Mnuchin  
Secretary  
U.S. Department of the Treasury  
1500 Pennsylvania Avenue, NW  
Washington, DC 20220

The Honorable Jerome H. Powell  
Chairman  
Board of Governors of the Federal Reserve  
20th Street and Constitution Avenue, NW  
Washington, DC 20551

Dear Secretary Mnuchin and Chairman Powell:

As members of the Senate Banking Committee, we write to you regarding the temporary emergency lending facilities funded and authorized by the CARES Act (P.L. 116-136). These facilities, which were established in response to the unprecedented market turmoil caused by the COVID-19 pandemic earlier this year, have been extremely successful in achieving their intended purpose of stabilizing credit markets so businesses, states, and municipalities could access private capital. Congress's intent was clear: these facilities were to be temporary, to provide liquidity, and to cease operations no later than the end of 2020. With liquidity restored, we strongly support Treasury Secretary Mnuchin's decision to close these facilities by year-end, as Congress intended and the law requires, and the Federal Reserve's decision to return unused CARES Act funds to Treasury.

In March 2020, U.S. credit markets experienced substantial disruption and turmoil that threatened the ability of businesses, states, and municipalities to obtain capital. In response to this liquidity crunch, Congress, through the CARES Act, provided your agencies the funding and authority to establish emergency lending facilities "for the purpose of providing liquidity to the financial system that supports lending" to businesses, states, and municipalities.<sup>1</sup> In other words, the intended purpose of these facilities was to stabilize credit markets. These facilities were not intended to undercut or replace the private market, be a mechanism to bail out insolvent or fiscally irresponsible businesses, states, and municipalities, or be a substitute for fiscal policy, which is the province of Congress.

Chairman Powell aptly summed up the intended purpose of the facilities at a November 5, 2020 press conference when he explained: "These programs serve as a backstop to key credit markets and have helped to restore the flow of credit from private lenders through normal channels. . . . We're there to provide emergency liquidity when intermediation has broken down and then to

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<sup>1</sup> CARES Act, Pub. L. No. 116-136, § 4003(b)(4), 134 Stat. 281 (2020).

pull back on that . . . when the markets normalize.”<sup>2</sup> Fortunately, the mere announcement of these backstop emergency lending facilities had an enormously positive effect on normalizing credit markets and the ability of businesses, states, and municipalities to access capital. As a result markets have not only normalized, they have provided record levels of liquidity. The corporate bond market has set a new historic record for the issuance of bonds, with more than \$2 trillion in issuances so far this year. And the issuance of municipal bonds is up 25 percent year-over-year, with \$420 billion in new issuances.

As credit markets have returned to normal and flourished, general economic conditions have improved greatly. While the U.S. economy and labor market have not yet returned to their historic pre-pandemic levels, they have defied expectations. Earlier this year, the Federal Reserve and others forecasted that the unemployment rate would remain above 9 percent through the end of 2020. However, in October, the unemployment rate had already fallen to 6.9 percent, which is well below the 14.7 percent peak reached in April 2020. In addition, wages are rising, labor force participation is up, and gross domestic product is improving. With multiple promising coronavirus vaccines on the horizon and effective treatments available, the economy and labor market are well-positioned to continue their recovery. Congress can further support the recovery, if needed, by providing additional fiscal stimulus. But that’s a job for elected officials accountable to the public, not the emergency lending facilities funded and authorized by the CARES Act.

These facilities were always intended to be temporary and to expire at the end of 2020. We should know. As members of the Senate Banking Committee, we were present for the drafting and passage of the CARES Act. But, more importantly, Congress’s intent to close these facilities by year-end is reflected in the statutory language of the CARES Act. Section 4029 of the CARES Act, which is entitled “Termination of Authority,” indicates that two sets of authority expire on December 31, 2020: (1) Treasury’s authority to invest CARES Act funds in emergency lending facilities established by the Federal Reserve (even if Treasury invested in such a facility prior to December 31, 2020) and (2) the Federal Reserve’s authority to operate or restart facilities using CARES Act funds.<sup>3</sup> The expiration of these authorities on December 31, 2020 is further solidified by Section 4027 of the CARES Act, which appropriated the funds necessary to establish these facilities and placed clear limits on the use of those funds.<sup>4</sup> Section 4027 states that after December 31, 2020, these funds may only be used for a limited set of purposes, such as paying administrative expenses, that do not include investing in, operating, or restarting emergency lending facilities.

Under your leadership, Treasury and the Federal Reserve have worked tirelessly to respond to the financial and economic consequences of the pandemic. The temporary emergency lending facilities funded and authorized by the CARES Act have played an important role in that work. These facilities have achieved their intended purpose of stabilizing credit markets to help restore the

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<sup>2</sup> Transcript of Chairman Powell’s Press Conference, Nov. 5, 2020, <https://www.federalreserve.gov/mediacenter/files/FOMCpresconf20201105.pdf>.

<sup>3</sup> CARES Act, Pub. L. No. 116-136, § 4029, 134 Stat. 281 (2020).

<sup>4</sup> CARES Act, Pub. L. No. 116-136, § 4027, 134 Stat. 281 (2020).

flow of credit to businesses, states, and municipalities. They should expire, as Congress intended and the law requires, on December 31, 2020. With the CARES Act, Congress demonstrated a willingness to act swiftly to address the financial fallout from the pandemic. If a critical need arises again in the future for these facilities, Congress can once again take action to revive them. We thank you for your attention to this matter.

Sincerely,



Pat Toomey  
U.S. Senator



Mike Crapo  
U.S. Senator



Tom Cotton  
U.S. Senator



Kevin Cramer  
U.S. Senator



John Kennedy  
U.S. Senator



Martha McSally  
U.S. Senator



Jerry Moran  
U.S. Senator



David Perdue  
U.S. Senator



M. Michael Rounds  
U.S. Senator



Ben Sasse  
U.S. Senator



Tim Scott  
U.S. Senator



Richard Shelby  
U.S. Senator



Thom Tillis  
U.S. Senator